

Meeting Minutes

CESQG Rulemaking Workgroup

July 27, 2004

The Conditionally Exempt Small Quantity Generator (CESQG) Rulemaking Workgroup held their first meeting on July 27, 2004 at the Missouri Department of Natural Resources (department) Conference Center in Jefferson City. A copy of the agenda and attendance list is attached.

I. Introductions and Goals:

Mr. Rob Morrison, representing the department's Hazardous Waste Program, opened the meeting and introduced Mr. Jim Werner, Director of the department's Air and Land Protection Division. Mr. Werner gave opening comments and turned the floor back over to Mr. Morrison. Mr. Morrison continued with the goals of the proposed rule. A copy of his presentation is attached.

A. Can a generator can take their waste to someone who is registered?

Mr. Tom Judge, of the department's Hazardous Waste Program, Enforcement Section, explained that this is not allowed in Missouri. Various states do various things. Some states do a "permit-by-rule". Most states regulate CESQG waste as a form of industrial or solid waste, not hazardous waste because it is conditionally exempted and simpler and more flexible to do that. The places where a CESQG can take their waste is defined by 40 CFR 261.5(f)(3) and 40 CFR 261.5(g)(3). If you look at that, you'll see that some of the places where it could go would require registration, but not all. It is not the possession or lack of registration that prevents someone from being able to take CESQG waste, it is whether they fall within that list and meet the requirements.

B. Is it possible to change the current State law, specifically lift the ban on disposing in Missouri sanitary landfills?

Mr. Morrison stated that the department is willing to consider changes to the statute in order to address the current disposal practices that are occurring (businesses that dispose of their CESQG waste in their trash). This support of legislative changes only relates to the management of CESQG waste, not disposal in sanitary landfills. It is the department's purpose, with these regulations/program, to foster a means of getting more CESQG waste out of the sanitary waste stream.

Mr. Roger Randolph, Director of the department's Solid Waste Management Program, further explained that the Solid Waste Interim committee was looking at the current Solid Waste Fee structure. He did not feel that it would be to the group's advantage to bring more to the committee at this time.

II. Household Hazardous Waste Facilities:

Mr. Morrison introduced Mr. Randolph and Ms. Beth Marsala, Enforcement Section Chief of the department's Solid Waste Management Program. A copy of her presentation is attached. Mr. Randolph indicated that he wanted to get feedback from the group about doing a joint HHW and CESQG rule.

A. Is CESQG waste currently accepted at single day events?

Mr. Judge stated that CESQG waste is usually not accepted at HHW events. It could be, if the event was structured the right way. Usually a facility contracts with a treatment, storage and disposal (TSD) facility to do a single day CESQG event.

Mr. Richard Weiman, representing the City of Columbia, stated that Columbia has a permanent HHW facility. When someone calls them about CESQG waste, they refer them to their contracted disposal company. Some disposal companies will orchestrate a mobile collection, sending a contractor to go around and collect the waste.

B. Manifest Issue

Ms. Carla McDowell, representing Waste Express, stated that although CESQG's are not required to manifest their waste, by internal policy her company will not accept the waste without a manifest. She explained that pretty much all commercial TSDs will not accept waste without a manifest, for business reasons, not because it is required.

The general group discussion revolved around keeping HHW and CESQG waste separate. Under different environmental statutes, joint and several liability exists. The government, or even private citizens, can pursue legal action against anyone involved at any point with improperly placing in a landfill (or otherwise illegally managing) hazardous wastes or hazardous materials. This can occur even if that person or company had nothing to do with the illegal act itself. This is a simple fact of life for anyone managing hazardous materials or hazardous waste. Commingling hazardous waste with other materials can potentially increase the volume of hazardous waste involved, and subject anyone in the management chain for the materials involved to increased regulation and legal jeopardy. Any decision to mix or commingle hazardous waste, instead of keeping it segregated, should be made very carefully and examined for possible consequences before it is done.

Mr. Bill Lewry, representing the City of Kansas City, suggested the idea of tiered permitting of HHW collection facilities.

Level A – antifreeze, paint and oil only.

Level B – HHW only.

Level C – HHW and CESQG waste.

III. CESQG Rule Outline and Questions and Answers

Mr. Morrison introduced Ms. Darleen Groner, representing the department's Hazardous Waste Program, Permits Section. Ms. Groner asked the group how they feel the rulemaking should proceed.

A. Options

1. State propose recommendations and the subgroups would add and modify
2. The group would identify key elements and the subgroups would draft recommendations
3. The state would write a detailed outline of the rule and the group would fill-in the blanks.

The group preferred to have the agency draft the rule based on policy choice of the workgroup. Once drafted, the group would review /continue.

B. Could this be tied into with Clandestine cleanup?

Mr. Judge stated that Missouri has facilities designed for Clandestine cleanup. The facilities that do this are not broadcasted for safety reasons. There is also a higher level of training required with these facilities because of the chemicals that are seized.

C. How does the universal waste scenario fit?

Nothing right now prohibits HHW facilities from accepting universal wastes, if they follow the regulations governing universal wastes. Universal waste is high volume and low toxicity. CESQG is generally low volume and potentially high toxicity. Some controls are needed due to increased toxicity.

D. If it looks like HHW waste (lightbulb) would it be possible to treat it like HHW waste, regardless if it comes from a CESQG facility?

Problems with this solution would be that...

1. It would legitimize the disposal of CESQG waste in sanitary landfills. This is currently banned by Missouri law.
2. The collection facility can't always go by container labels. Some facilities have seen everything from bourbon to barbecue sauce to uranium in a mis-marked container.

E. Would it be possible to allow commingling of HHW and CESQG waste?

Under the current regulation scheme, when HHW and CESQG waste is mixed, it becomes CESQG waste. Facilities don't want to become a registered generator because they accept over 100 kg of CESQG waste. Some group members feel that it is because of an undue fear of being registered. The facilities want to stay under the radar.

F. Would it be possible to increase the state limit from 100 kg to the federal limit of 1,000 kg for accumulation, similar to the federal regulations?

There would be safety issues involved with a small CESQG facility collecting large amounts of CESQG waste. It was suggested to keep the limit low at CESQG facilities and raise the limit for the collection facilities

G. Can facilities stay at the CESQG level if they only accept CESQG waste?

Some of the workgroup members would like to accept CESQG waste and still be considered exempt facilities. Current Missouri regulations do not allow anyone to accept CESQG waste unless they are a facility approved by the state.

IV. Next Meeting

It was agreed that the group needs to understand the issues better. About 20 members of the group volunteered to serve on a "Joint HHW and CESQG Facilities" subgroup. They would like to have another meeting before they put pen to paper.

The "Joint HHW and CESQG Facilities" subgroup will reconvene in 2 to 4 weeks to discuss the issues. The subgroup will report back to the main group and the rulemaking process will progress from there.